

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 04-72180

v.

District Judge Paul D. Borman
Magistrate Judge R. Steven Whalen

ELI HARVEY,

Defendant.

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REPORT AND RECOMMENDATION

This is a 13-year old student loan case. On February 7, 2007, the Court granted summary judgment in favor of the Plaintiff [Doc. #40]. Since that time, Defendant Eli Harvey has filed a number of objections to writs of garnishment, all of which have been either denied or dismissed based on his agreement to voluntary payment plans in lieu of garnishment.

On February 24, 2017, Mr. Harvey filed yet another motion to stay writ of garnishment and for evidentiary hearing [Doc. #115], which has been referred for a Report and Recommendation under 28 U.S.C. § 636(b)(1)(B). I recommend that this motion be DENIED.

DISCUSSION

On February 21, 2017, I filed a Report and Recommendation (“R&R”) that Mr. Harvey’s motions to set aside/stay writs of garnishment and for evidentiary hearings be denied [Doc. #113]. On February 24, 2017, while the R&R was pending, Mr. Harvey filed the present motion [Doc. #115]. Then, on March 1, 2017, he filed objections to the R&R [Doc. #116]. On March 30, 2017, the Court rejected Mr. Harvey’s objections, adopted the R&R, and denied the motions [Doc. #126].

In effect, Mr. Harvey seeks to re-litigate the underlying case. The issues he raises in the present motion were rejected in my previous R&R and in the Court’s order of March 30, 2017, and are thus barred under the doctrine of law of the case. *See Scott v. Churchill*, 377 F.3d 565, 569-70 (6th Cir. 2004)(citing *Arizona v. California*, 460 U.S. 605, 618 (1983)). And from a substantive viewpoint, the present motion lacks merit for the reasons discussed in my previous R&R. The motion should therefore be denied.

RECOMMENDATION

I recommend that Defendant’s motion to stay writ of garnishment and for evidentiary hearing [Doc. #115] be DENIED.

I further recommend that Defendant obtain leave of the Court before filing any further motion with regard to the garnishment of his employer, PIC Group, Inc.

Any objections to this Report and Recommendation must be filed within fourteen (14) days of service of a copy hereof, including weekends and intervening holidays, as

provided for in 28 U.S.C. §636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); *Howard v. Secretary of HHS*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sullivan*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Within fourteen (14) days of service of any objecting party's timely filed objections, including weekends and intervening holidays, the opposing party may file a response. The response shall be not more than twenty (20) pages in length unless by motion and order such page limit is extended by the court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: April 10, 2017

CERTIFICATE OF SERVICE

I hereby certify on April 10, 2017, that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to non-registered ECF participants.

s/Carolyn Ciesla
Case Manager to
Magistrate Judge R. Steven Whalen